

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 TYRONE NOEL NUNN,

Case No.: 2:24-cv-01954-APG-MDC

4 Plaintiff

**Dismissal Order**

5 v.

6 ATTORNEY GENERAL, et al.,

7 Defendants  
8

9 Tyrone Noel Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress  
10 constitutional violations that he claims he suffered. ECF No. 1-1. On November 18, 2024,  
11 Magistrate Judge Couvillier ordered Nunn to file a fully complete application to proceed in  
12 forma pauperis or pay the full \$405 filing fee by December 20, 2024. ECF No. 3. Judge  
13 Couvillier warned Nunn that the action could be dismissed if he failed to file a complete  
14 application with all three documents or pay the full filing fee by that deadline. *Id.* at 2. That  
15 deadline expired and Nunn did not file a fully complete application, pay the full filing fee, or

16 District courts have the inherent power to control their dockets and “[i]n the exercise of  
17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.  
18 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
19 dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See*  
20 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply  
21 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*  
22 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court  
23 order). In determining whether to dismiss an action on one of these grounds, I must consider:

1 (1) the public’s interest in expeditious resolution of litigation; (2) my need to manage my docket;  
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
3 their merits; and (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine*  
4 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833  
5 F.2d 128, 130 (9th Cir. 1987)).

6 The first two factors, the public’s interest in expeditiously resolving this litigation and my  
7 interest in managing my docket, weigh in favor of dismissal of Nunn’s claims. The third factor,  
8 risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of injury  
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
10 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
11 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by  
12 the factors favoring dismissal.


13 The fifth factor requires me to consider whether less drastic alternatives can be used to  
14 correct the party’s failure that brought about my need to consider dismissal. *See Yourish v. Cal.*  
15 *Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic alternatives  
16 *before* the party has disobeyed a court order does not satisfy this factor). Courts “need not  
17 exhaust every sanction short of dismissal before finally dismissing a case, but must explore  
18 possible and meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.  
19 1986). Because this action cannot realistically proceed until and unless Nunn either files a  
20 complete application or pays the filing fee, the only alternative is to enter a second order setting  
21 another deadline. But the reality of repeating an ignored order is that it often only delays the  
22 inevitable and squanders the court’s finite resources. The circumstances here do not indicate that  
23

1 this case will be an exception: there is no hint that Nunn needs additional time or evidence that  
2 he did not receive Judge Couvillier's order.

3 Moreover, Nunn has filed over 80 pro se lawsuits in this district since July 2023.<sup>1</sup>  
4 Dozens of these lawsuits have been dismissed because Nunn failed to correct fundamental  
5 defects with them such as paying the filing fee or filing a complete application to proceed in  
6 forma pauperis. Thus, Nunn has been informed numerous times how to file a complete  
7 application to proceed in forma pauperis. Setting another deadline is not a meaningful  
8 alternative given these circumstances. So the fifth factor favors dismissal. Having thoroughly  
9 considered these factors, I find that they weigh in favor of dismissal.

10 I THEREFOER ORDER that this action is dismissed without prejudice based on Nunn's  
11 failure to file a complete application to proceed in forma pauperis or pay the \$405 filing fee in  
12 compliance with Judge Couvillier's November 18, 2024, order. The Clerk of Court is directed to  
13 enter judgment accordingly and close this case. No other documents may be filed in this now-  
14 closed case. If Nunn wishes to pursue his claims, he must file a complaint in a new case and pay  
15 the filing fee or file a complete application to proceed in forma pauperis.

16 Dated: January 6, 2025

17   
18 \_\_\_\_\_  
19 Andrew P. Gordon  
20 Chief United States District Judge  
21  
22

23 <sup>1</sup> I take judicial notice of the online docket records of the U.S. Courts, which may be accessed by  
the public at: <https://pacer.uscourts.gov>.